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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FOUR

THE PEOPLE,

Plaintiff and Respondent,

v.

ALEX MICO PEREZ,

Defendant and Appellant.

B287868

(Los Angeles County  
Super. Ct. No. GA085851)

APPEAL from a judgment of the Superior Court of Los Angeles, County, Peter A. Hernandez, Judge. Affirmed.

John L. Staley, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

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On March 13, 2012, defendant, then 36 years of age, was arrested with 191 grams of marijuana and charged with two felony offenses: transportation of marijuana (former Health & Saf. Code, § 11360; count 1)<sup>1</sup> and possession of marijuana for sale (former § 11359; count 2). Defendant, represented by counsel, entered no contest pleas to both counts. Counsel stipulated the police report and early disposition probation report established a factual basis for the plea. The trial court suspended imposition of sentence and placed defendant on formal probation for three years, with various terms and conditions. Defendant successfully completed probation.

With the passage of Proposition 64 (the Control, Regulate and Tax Adult Use of Marijuana Act), defendant sought the dismissal of count 1 or, alternatively, the reduction of that conviction to an infraction or misdemeanor, as well as a similar reduction for count 2. (§ 11361.8.) The district attorney agreed defendant's convictions should be reduced to misdemeanors, but otherwise opposed the motion.

The arresting officer testified at the hearing on defendant's motion. The officer found several ounces of marijuana in defendant's minivan, and defendant admitted he was selling the drug. The trial court denied defendant's motion to dismiss count 1, but reduced the convictions on both counts to misdemeanors.

Defendant timely appealed. We appointed counsel to represent defendant on appeal. Defendant's appointed counsel filed an opening brief in accordance with *People v. Wende* (1979) 25 Cal.3d 436, asking this court to conduct an independent

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<sup>1</sup> All undesignated statutory citations are to the Health and Safety Code.

review of the record to determine if there are any arguable issues on appeal. On August 1, 2018, we advised defendant he could submit a brief or letter within 30 days raising any grounds for appeal, contentions, or arguments he wished this court to consider. Defendant did not file a supplemental brief, and the time to do so has elapsed.

We have completed our review of the record on appeal and find no arguable appellate contentions. At the hearing on defendant's Proposition 64 motion, the prosecution established by clear and convincing evidence that defendant was not entitled to the dismissal or sealing of count 1. (§ 11361.8, subds. (e), (f).) Defendant's convictions were properly redesignated as misdemeanors pursuant to section 11361.8, subdivision (e).

The *Wende* brief filed by appellate counsel satisfies his obligation to represent defendant on an appeal where no arguable issue exists. (*Smith v. Robbins* (2000) 528 U.S. 259, 277–278.)

**DISPOSITION**

The judgment is affirmed.

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DUNNING, J.\*

We concur:

MANELLA, P. J.

WILLHITE, J.

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\* Judge of the Orange Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.